

# COMPARISON OF VIETNAM'S AND THE EUROPEAN UNION'S REGULATIONS ON PRODUCT LABELLING AND MAXIMUM RESIDUE LEVELS OF PESTICIDES

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## ABSTRACT

*Vietnam has a number of advantages when it comes to agricultural production and export. However, while the output of exported agricultural products tends to increase gradually over time, the surplus value is low and the exporter's competitiveness is low, particularly when exporting to developed country markets. One of the primary reasons for this situation is that the quality of Vietnamese agricultural products is not guaranteed, and the majority of orders are refused for import due to non-compliance with labelling regulations and the use of plant protection products that are prohibited or have residue levels that exceed the importing country's permitted levels. The purpose of this article is to analyse Vietnam's regulations on product labelling and pesticide residue limits, identifying any inconsistencies between current Vietnamese legal regulations and those of the European Union.*

**Keywords:** Agricultural Products, Labelling, Maximum Residues Level, Vietnam, EU

## INTRODUCTION

With numerous advantages in terms of climate, soil, and human resources, agriculture has recently reaffirmed its position as a critical pillar of the national economy through export data (Dang-Kim-Son et al., 2014).

Although agricultural output and export value have increased over the years, Vietnam's exports remain primarily raw or semi-processed goods with little added value. The quantity and quality of exported goods cannot be guaranteed due to fragmentation in production, inadequate infrastructure in raw material areas, a lack of advanced farming techniques, and a lack of cooperation between parties involved in the production process. The chain of production and consumption of agricultural products, in particular, has not yet met developed countries' import standards.

One of the primary reasons for the aforementioned situation is that Vietnam's legal provisions still contain numerous points that are incompatible with theory and practice, lack feasibility, and are incompatible with the country's common standards. Economy, particularly in comparison to EU regulations (Vang-Phu & Son, 2020).

After China, the European Union is Vietnam's second largest trading partner and one of the country's primary export markets, particularly for agricultural products. While the EU is a market with stringent quality requirements, the price of goods sold to this market is frequently higher than in other markets. Under the condition that the Vietnam-EU Free Trade Agreement enters into force on August 1, 2020, the study of Vietnamese legal system needs to be re-evaluated is a pressing issue in both theory and practice in order to determine any inconsistencies between current Vietnamese legal regulations and those of the European Union.

## Regulations Governing the Labelling of Goods in Accordance with Vietnamese and European Union Standards

According to the provisions of the Government's Decree 43/2017/ND-CP dated April 14, 2017 on the labelling of goods, goods must be labelled as follows:

First, the goods label must include the following information:

(i) The name of the goods; ii) The name and address of the organization or individual responsible for the goods; iii) The origin of the goods; iv) Other contents, as specified in Appendix I of Decree 43/2017/ND-CP and other applicable legal documents.

Second, when goods have properties that fall under multiple categories in Appendix I or are not yet specified in legal documents, the organization or individual responsible for the goods shall self-identify the group of goods in order to record the contents specified in point d, clause 1, Article 10 of Decree 43/2017/ND-CP.

Third, if the size of the goods does not allow for the inclusion of all mandatory contents on the label, the contents specified in Points a, b, and c of Clause 1, Article 10 of Decree 43/2017 must be incorporated. The contents specified in Point d Clause 1 Article 10 of Decree No. 43/2017/ND-CP are recorded in the documents accompanying the goods, and the label must indicate the location of the contents there.

For goods classified as medical equipment, the presentation of the contents specified in Point d, Clause 1, and Article 10 of Decree 43/2017/ND-CP must adhere to the provisions of Appendix I.

Although only three types of information are required to be written on goods labels, depending on the category of goods, Decree 43/2017/ND-CP contains regulations requiring the recording of an additional eight (08) groups of information. following: (1) the item's name; (2) the organization or individual responsible for the item's name and address; (3) the item's quantity; (4) the date of manufacture and intended use; (5) the item's origin; (6) the item's ingredients and their quantification; (7) specifications and warning information; and (8) other information displayed on the item's label.

Specifically, for goods classified as food, in addition to the three mandatory pieces of information listed above, the label of such goods must include the following four additional pieces of information: (1) Quantity; (2) Manufacturing date; (3) Expiration date; (4) Cautionary information (if any). For goods classified as food, the following information must be included: (1) Quantities; (2) Manufacturing date; (3) Expiration date; (4) Ingredient or ingredient quantity; (5) Information and warnings; (6) Use and maintenance instructions.

Vietnam's and the European Union's regulations on product labelling contain some inconsistencies. Accordingly, Article 9 of the European Commission's Regulation 1169/2011 specifies 12 different types of information that must be included on product labels. However, in comparison to European regulations, the mandatory information that must be displayed on Vietnamese goods labels is quite simple.

For the group of food products, Vietnam's regulations require seven (07) pieces of information on the label, whereas the EU continues to require twelve (12) pieces of information (table 1).

<b>EU (12)</b>	<b>Vietnam (7)</b>
(i) The name of the food; (ii) The list of ingredients; (iii) any ingredient or processing aid listed in annex ii or derived from a substance or product listed in annex ii causing allergies or intolerances used in the manufacture or preparation of a food and still present in the finished product, even if in an altered form; (iv) The quantity of certain ingredients or categories of ingredients;	(i) Name of goods; (ii) Name and address of the organization or individual responsible for the goods; (iii) Origin of goods; (iv) Quantitative; (v) Date of manufacture; (vi) Expiry date; (vii) Warning information (if

<ul style="list-style-type: none"> <li>(v) The net quantity of the food;</li> <li>(vi) The date of minimum durability or the ‘use by’ date;</li> <li>(vii) Any special storage conditions and/or conditions of use;</li> <li>(viii) The name or business name and address of the food business operator referred to in article 8(1);</li> <li>(ix) The country of origin or place of provenance where provided for in article 26;</li> <li>(x) Instructions for use where it would be difficult to make appropriate use of the food in the absence of such instructions;</li> <li>(xi) With respect to beverages containing more than 1,2 % by volume of alcohol, the actual alcoholic strength by volume;</li> <li>(xii) A nutrition declaration.</li> </ul>	any)
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(Source: compiled by the author)

Thus, in the following information, Vietnam's labelling regulations are incompatible with those of the EU for the group of food products: Vietnam requires information on the "production date" and the "expiration date," whereas the EU only requires the "use by date." While compliance with EU regulations is mandatory, Vietnam is not required to label: (i) Ingredients list (nutrition); (ii) Any ingredient or processing aid [...] derived from an allergenic or intolerable substance or product that is used in the manufacturing or preparation of food and persists in the finished product, even if the substance has been altered; (iii) Net weight of food; (iv) Storage conditions; (v) Use instructions in cases where proper use of the food is difficult, if such instructions are not available; (vi) For beverages containing more than 1.2 percent alcohol by volume, indicate the actual alcohol content by volume; (vii) Nutritional information.

For the group of food products, the EU and Vietnam require 12 and 9 pieces of information on the label, respectively (table 2).

<b>Table 2 COMPARISON OF MANDATORY LABELLING INFORMATION FOR FOOD PRODUCTS BETWEEN VIETNAM AND THE EU</b>	
<b>EU (12)</b>	<b>Vietnam (9)</b>
<ul style="list-style-type: none"> <li>(i) the name of the food;</li> <li>(ii) the list of ingredients;</li> <li>(iii) any ingredient or processing aid listed in Annex II or derived from a substance or product listed in Annex II causing allergies or intolerances used in the manufacture or preparation of a food and still present in the finished product, even if in an altered form;</li> <li>(iv) the quantity of certain ingredients or categories of ingredients;</li> <li>(v) the net quantity of the food;</li> <li>(vi) the date of minimum durability or the ‘use by’ date;</li> <li>(vii) any special storage conditions and/or conditions of use;</li> <li>(viii) the name or business name and address of the food business operator referred to in Article 8(1);</li> <li>(ix) the country of origin or place of provenance where provided for in Article 26;</li> <li>(x) instructions for use where it would be difficult to make appropriate use of the food in the absence of such instructions;</li> <li>(xi) with respect to beverages containing more than 1,2 % by volume of alcohol, the actual alcoholic strength by volume;</li> <li>(xii) a nutrition declaration.</li> </ul>	<ul style="list-style-type: none"> <li>(i) Name of goods;</li> <li>(ii) Name and address of the organization or individual responsible for the goods;</li> <li>(iii) Origin of goods;</li> <li>(iv) Quantification;</li> <li>(v) Date of manufacture;</li> <li>(vi) Expiry date;</li> <li>(vii) Ingredient or ingredient quantity;</li> <li>(viii) Information, warnings;</li> <li>(ix) Instructions for use, instructions for maintenance</li> </ul>

(Source: Compiled by the author)

Mandatory EU information that Vietnam has not yet regulated includes the following: (i) Any ingredient or processing aid [...] derived from an allergenic or nonallergenic substance or product or tolerable substance or product that is used in the production or processing of

food and remains in the finished product, even if the substance has been altered; (ii) Food's net weight; (iii) For beverages containing more than 1.2 percent alcohol by volume, indicate the actual alcohol content by volume; (iv) Nutritional information.

### **Regulations on Maximum Residue Levels of Pesticides used in Agriculture**

According to the Minister of Health's Circular No. 50/2016/TT-BYT dated December 30, 2016, the Ministry of Health currently only promulgates a list of maximum residue levels for 270 pesticides used in agriculture. Additionally, on August 30, 2019, the Minister of Health issued Circular No. 24/2019/TT-BYT establishing guidelines for the management and use of 400 different food additives. The remarkable aspect of Circular No. 24/2019/TT-BYT is that it contains extremely detailed regulations for adjusting the maximum residue level of additives in accordance with global practice.

First, the principle that regulations governing the maximum residue level must be aimed at ensuring human health safety; Comply with applicable international standards and regulations regarding the management and use of food additives; Updated in accordance with the risk management recommendations for food additives issued by the competent Vietnamese regulatory agency, the Codex International Food Standards Committee, and the United States Expert Committee on Food Additives Organization for Food and Agriculture (FAO)/World Health Organization (WHO).

Second, reference to the application of national standards in the absence of national standards; applying Codex International Food Standards Committee standards, Food Additives Expert Committee standards of the International Food and Agriculture Organization (FAO)/World Health Organization (WHO) regional standards, and foreign standards in cases where Vietnam has not yet promulgated national standards.

Third, regulations on the Food Safety Department - Ministry of Health's responsibility for proposing to review and amend Circular 28/2019/TT-BYT every two (2) years or on an irregular basis in accordance with the Circular's provisions, management requirements on the basis of updated CAC standards and proposals from organizations and individuals producing and trading food and food additives.

The Minister of Agriculture and Rural Development issued Circular No. 10/2020/TT-BNNPTNT on September 9, 2020, to promulgate the following list of pesticides permitted and prohibited for use in Vietnam: (i) List of pesticides permitted for use in Vietnam, Appendix 1 to Circular 10/2020/TT-BNNPTNT, including:

- a) Drugs used in agriculture:
  - Pesticides: 861 active ingredients with 1821 trade names.
  - Pesticides: 587 active ingredients with 1282 trade names.
  - Herbicides: 241 active ingredients with 702 trade names.
  - Rat poison: 8 active ingredients with 26 trade names.
  - Growth regulators: 54 active ingredients with 157 trade names.
  - Insect attractant: 8 active ingredients with 8 trade names.
  - Snail insecticide: 31 active ingredients with 151 trade names.
  - Substances: 5 active ingredients with 6 trade names.
- b) Detergents: 15 active ingredients with 25 trade names.
- c) Forest product preservatives: 7 active ingredients with 8 trade names.
- d) Warehouse disinfectant: 3 active ingredients with 10 trade names.
- e) Medicines used for golf courses:
  - Pesticides: 2 active ingredients with 2 trade names.
  - Herbicides: 1 active ingredient with 1 trade name.
  - Growth regulators: 1 active ingredient with 1 trade name.
- f) Seed treatment drugs:
  - Pesticides: 10 active ingredients with 15 trade names.
  - Pesticides: 12 active ingredients with 13 trade names.
- g) Post-harvest preservatives for agricultural products
  - 01 active ingredient with 01 trade name.

(ii) List of pesticides banned from use in Vietnam, Appendix II issued together with Circular 10/2020/TT-BNNPTNT, including:

- a) Pesticides, forest product preservatives: 23 active ingredients.
- b) Pesticides: 6 active ingredients.
- c) Rat poison: 1 active ingredient.
- d) Herbicide: 1 active ingredient.

Circular 10/2020/TT-BNNPTNT, on the other hand, does not specify maximum residue levels for individual pesticides or active ingredients and thus conflicts with Circular 50/2016/TT-BYT. As a result, Circular 10/2020/TT-BNNPTNT authorizes the use of 1828 pesticides or active ingredients in agricultural production (excluding the 04 series of pesticides used on golf courses), but Circular No. 50/2016/TT-BYT limits residue levels to 270 pesticides or active ingredients that are incompatible with one another. Thus, there are currently 1558 pesticides or active ingredients that are not regulated in terms of dosage or maximum residue level allowed for market circulation. Additionally, neither of the two circulars mentioned above contains regulations requiring periodic review and updating of the list of plant protection drugs or active ingredients, as well as the maximum allowable residue level, in order to ensure compliance with the regulations at the current global pace of scientific and technological development. Meanwhile, adjust this issue as well, but the European Union makes frequent, even quarterly, updates.

Thus, under Vietnamese law, the maximum residue level for pesticides is currently divided into two categories:

*First, concerned with pesticide residue limits.*

Currently, the Ministry of Health only publishes a list of 270 pesticides' maximum residue levels and does not divide them into separate annexes for each product group, as Europe, the United States, and Japan do. To address this issue, the EU requires a maximum residue level for over 150,000 pesticides and active ingredients (EC, 2021), Japan requires a maximum residue level for over 900 types, China requires a maximum residue level for over 1,400 types (Fussell, 2020), and the United States requires a maximum residue level for over 2000 types (E-CFR, 2021).

Additionally, Vietnam does not have a regulation governing whether or not a drug not on this list is accepted for market circulation, nor does it stipulate a default residue level, as the European Union or Japan do, nor does it refer to the application of Codex regulations to regulate this case, nor does it prescribe the setting of pesticide residue levels or temporary active ingredients as other countries do (FAO, 2020).

*Second, regulations governing the use of permitted and prohibited pesticides.*

As analyzed, the Minister of Agriculture and Rural Development issued Circular No. 10/2020/TT-BNNPTNT on September 9, 2020, to promulgate a list of pesticides that are permitted to be used and those that are prohibited. Circular 10/2020/TT-BNNPTNT is used in Vietnam, but it does not specify the maximum residue level for each type of plant protection drug or active ingredient, and there is no compatibility with Circular 50/2016/TT-BYT regarding the quantity of pesticides objects that may be used.

Additionally, if foreign goods are imported into Vietnam but contain pesticides or active ingredients that are not on the permitted use list in Vietnam (and are not on the prohibited use list), how the maximum residue levels for these drugs or active ingredients will be controlled... are unregulated issues. This could result in Vietnam being a passive recipient of imported goods and possibly being sued in a similar fashion to the European Union (only allowing imports of goods using pesticides) (VCCI, 2019).

Currently, only Circular No. 24/2019/TT-BYT stipulates that the Food Safety Department of the Ministry of Health will check and update the regulations on the maximum allowable residue level of 400 different food additives every two years or as needed. Meanwhile, adjust this issue as well, but the European Union makes frequent updates (USTR, 2014).

## CONCLUSION

According to current Vietnamese legal regulations, agricultural products may be exported only if the following conditions are met: To begin, the exporter of goods must ensure that the exported goods comply with the importing country's regulations, the contract or international treaty or agreement with the importing country, relevant countries and territories, on mutual recognition of conformity assessment results. Second, adhere to applicable technical regulations during the manufacturing process or develop and implement management systems on your own to ensure the quality of their products. In accordance with the preceding two general conditions, the enterprise must prepare the following documents in order to obtain permission from the authorities to export goods of plant origin:

First, pesticide use in food and agricultural production must adhere to Ministry of Health and Ministry of Agriculture and Rural Development regulations.

Second, the goods label must include at least three mandatory pieces of information: (i) the goods' name; (ii) the organization or individual responsible for the goods' name and address; and (iii) the goods' origin.

Moreover, depending on the type of goods, additional information may be required on the goods label. Although the output and export turnover of Vietnam's agricultural products have increased year after year, the surplus value is low due to Vietnam's reliance on raw or preliminary agricultural products. As a result, the ability to penetrate the markets of developed countries continues to face numerous obstacles. Additionally, the legal framework for regulating the quality of Vietnamese goods in general and agricultural products in particular, is linked to the maximum residue level of pesticides and the information that must be recorded. The label, in particular, has numerous flaws and is incompatible with global standards. In general, Vietnam has sufficient regulations to control and ensure the quality of agricultural products from production to export, but there are no specific regulations or specific regulations that are not followed. These regulations have not been updated in accordance with international common standards (Codex), and the mechanism for enforcing these regulations is ineffective. Agriculture, for example, is managed by three specialized ministries: the Ministry of Agriculture and Rural Development at the production stage, the Ministry of Health at the production and processing stages, and the Ministry of Industry and Trade at the production stage. On the market, goods are circulated. Each of these Ministries has agencies responsible for inspecting and ensuring the quality of goods, but the enforcement mechanism is ineffective, and even within these agencies, responsibilities for ensuring the quality of agricultural products to protect consumer health and the environment are overlapping and pushing. According to research findings, Vietnam's current regulations on pesticide residue limits and product labelling are deficient and inconsistent with international standards, particularly those of the United States and the European Union.

In short, in order to expand Vietnam's agricultural exports to developed countries' markets and reap the benefits of the Free Trade Agreement, aside from the benefits of tariffs and import quotas, Vietnamese agricultural products will need to adapt to developed countries' requirements for food safety, standards, and technical regulations for imported agricultural products.

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